

IN THE U.S. BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RE: Deana Gaffney : Bk. No.: 18 – 13983 – amc  
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:

**Debtor's Objection to Proof of Claim No. 2**

Debtor, Deana Gaffney, hereby objects to Proof of Claim No. 2 as follows:

1. On June 14, 2018, Debtor filed the above-captioned Chapter 13 Bankruptcy.
2. Thereafter on August 23, 2018, BSI Financial Services (BSI) filed a proof of claim in the above-captioned matter.
3. On September 25, 2018, BSI amended its proof of claim wherein it claimed that the Debtor owes it, \$121,619.87. (Attached hereto, incorporated herein and marked Exhibit "A" is a true and correct copy of Proof of Claim No.: 2).
4. Debtor objects to the creditors claim as it ignores the parties prior consent judgment for \$70,000.00 entered by agreement on July 20, 2017. (Attached hereto, incorporated herein and marked Exhibit "B" is a true and correct copy the Consent Judgment).
5. Debtor contends that the consent judgment novated the mortgage agreement that it signed on Feb. 10, 2015 with Visio Financial Services.
6. Furthermore, the interest on the consent judgment is the statutory rate of 6%.
7. Although, BSI, Visio's assignee, contends that the mortgage is still effect, the consent judgment lays out the terms of Debtor's debt to BSI

and makes no mention of continuing the terms of the mortgage.

WHEREFORE, Debtor respectfully requests that this Court sustain its objection to Proof Claim No. 2 and declare that Debtor's debt to BSI is \$70,000 plus 6% interest per annum.

Respectfully Submitted:

Date: November 11, 2018

/s/ Demetrius J. Parrish, Jr.  
Demetrius J. Parrish, Jr., Esquire  
Atty. For Debtor  
7715 Crittenden Street, #360  
Philadelphia, Pa. 19118  
(215) 735 - 3377/(215) 827 - 5420  
Email: [djpbkpa@gmail.com](mailto:djpbkpa@gmail.com)

## EXHIBIT "A"

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Deana L. Gaffney

Debtor(s)

CHAPTER 13

NO. 18-13983 AMC

Debtor(s)

**CERTIFICATE OF SERVICE**

I, the undersigned, attorney for VFS Lending JV II, LLC do hereby certify that true and correct copies of the foregoing Proof of Claim have been served September 25, 2018, by electronic filing upon those listed below:

Attorney for Debtor(s)  
Demetrius J. Parrish, Esq.  
7715 Crittenden Street  
#360  
Philadelphia, PA 19118

***Bankruptcy Trustee***

William C. Miller Esq.  
P.O. Box 1229  
Philadelphia, PA 19105

Date: September 25, 2018

**/s/ Rebecca A. Solarz, Esquire**

Rebecca A. Solarz, Esquire  
KML Law Group, P.C.  
BNY Mellon Independence Center  
701 Market Street, Suite 5000  
Philadelphia, PA 19106  
Phone: (215)-627-1322

### **Addendum to Total Debt Amended Proof of Claim**

- This is a Total Debt Amended Proof of Claim as this loan has already matured.
- As the entire amended claim is to be paid through the Chapter 13 Plan, the figures listed in Parts 3 and 4 of the 410A will not apply.
- The Debtor(s) is responsible for the ongoing payments of all taxes and insurance. Should further forced place disbursements be made by Creditor, a Motion for Relief may be filed.

Fill in this information to identify the case:

Debtor 1 Deana L. Gaffney

Debtor 2  
(Spouse, if filing)

United States Bankruptcy Court for the EASTERN District of Pennsylvania

Case number 18-13983 AMC

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	VFS Lending JV II, LLC Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____		
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <b>BSI Financial Services</b> Name <b>1425 Greenway Drive, #400</b> Number Street <b>Irving, TX 75038</b> City State ZIP Code  Contact phone  Contact email   Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) <b>BSI Financial Services</b> Name <b>P.O. Box 679002</b> Number Street <b>Dallas, TX 75267-9002</b> City State ZIP Code  Contact phone  Contact email	
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>2-1</u>		Filed on <u>8/23/2018</u> MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor? ☐ No  
☒ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 3599

7. How much is this claim? \$121,619.87 Does this amount include interest or other charges?  
☐ No  
☒ Yes Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001 (c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
Money Loaned

9. Is all or part of the claim secured? ☐ No  
☒ Yes. The claim is secured by a lien on property.  
**Nature of property:**  
☒ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_  
**Basis for perfection:** Mortgage/Note/Property 533 Fern Street Lansdowne, PA 19050  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$121,619.87  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$121,619.87  
\*This is a Total Debt Claim, The Debtor(s) is responsible for the ongoing payments of all taxes and insurance. Should further forced place disbursements be made by Creditor, a Motion for Relief may be filed.  
**Annual Interest Rate** (when case was filed) 18.00%  
☒ Fixed  
☐ Variable

10. Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☒ No ☐ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under

☐ Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

☐ Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

### Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 9/25/2018  
 MM / DD / YYYY

/s/ Rebecca A. Solarz, Esquire

Signature

Print the name of the person who is completing and signing this claim:

Name	Rebecca A. Solarz, Esquire		
	First name	Middle name	Last name
Title	Bankruptcy Attorney		
Company	<u>KML Law Group, P.C.</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	701 Market Street, Suite 5000		
	Number	Street	
	Philadelphia	PA	19106
	City	State	ZIP Code
Contact phone	<u>215-627-1322</u>		
	Email	rsolarz@kmlawgroup.com	



## EXHIBIT "B"

VFS LENDING JV II, LLC

Plaintiff

COURT OF COMMON PLEAS  
DELAWARE COUNTY

v.

DEANA L GAFFNEY

Defendant

No. 2016-003716

**CONSENT JUDGMENT**

**AND NOW**, it is hereby stipulated and agreed by and between plaintiff, VFS Lending JV II, LLC ("Plaintiff"), and defendant, Deana L. Gaffney ("Defendant"), as follows:

1. An in rem judgment is entered in favor of Plaintiff and against Defendant in the sum of \$70,000.00 through December 31, 2017.
2. After December 31, 2017, interest and other amounts that come due and owing shall be added to the judgment and loan pay off amount.
3. The subject property, located at 533 Fern Street Yeadon, PA 19050, shall not be sold at Sheriff's Sale prior to March 16, 2018.
4. Defendant shall bring all taxes current by November 1, 2017 to avoid a tax sale of the Property.
5. Defendant retains the right to reinstate and/or payoff the mortgage in question at any time prior to a Sheriff's Sale, if any, in accordance with the Mortgage and Note.
6. Plaintiff waives any rights it has to pursue a deficiency judgment against Defendant.
7. Defendant confirms that she is not presently, nor has she been within the last 367 days, an individual on active duty with the United States military.
8. This Consent Judgment represents the whole agreement of the parties who, intending to be legally bound, have executed it by and through the undersigned duly authorized

counsel.

9. This Consent Judgment may be executed in counterparts, each of which shall be considered an original.

10. A facsimile signature shall have the same effect as an original signature.

11. This Consent Judgment is effective upon execution.



David Fein, Esquire  
Attorney for Plaintiff

Date:

7/19/17



Date:

7-19-17

Michael F. Coates, Esquire  
Attorney for Defendant